HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Second Appeal No. 418/2007

APPELLANT Defendant

Sewa Ram, S/o Rama Mehar, Aged about 51 years, R/o Dev Sundara, Patwari Halka No. 113, Rajaswa Nirikshak Mandal and Tehsil Palari, Distt. Raipur (C.G.)

versus

RESPONDENTS/ Plaintiffs

1. Gendram, S/o Abhay Ram Mehar, Aged about 56 years,
2. Awadh Ram, S/o Abhay Ram Mehar, Aged about 58 years;
3. Sadhu, S/o Abhay Ram Mehar, Aged about 33 years;
4. Mantoriya, Wd/o Nammu Mehara, Aged about 61 years,
   All R/o Dev Sundara, Tehsil – Palari, Distt. Raipur (C.G.)
5. State of Chhattisgarh, Through – Colleoctor, Raipur (C.G.)

Second Appeal U/S 100 of the Civil Procedure Code

Present : Shri A.S. Rajput, counsel for the appellant.
Shri Akhil Agrawal, Panel Lawyer for the State/Respondent No. 5.

ORAL ORDER
(Passed on 15th October, 2007)

Heard on admission.

2. The appellant is aggrieved by an order dated 24-08-2007 passed by the First Additional District Judge, Baloda Bazar, District Raipur in Civil Appeal No. 11-A/2006 whereby the judgment and decree dated 30-01-2006 passed by the Civil Judge, Class-1, Baloda Bazar, District Raipur in Civil Suit No. 83-A/2002 for declaration of title, right of easement and permanent injunction was dismissed.

3. Both the Courts below have recorded concurrent finding that the appellant/plaintiff is not residing in the suit accommodation and has no right of easement. It has also been held that the appellant/plaintiff is not in possession of the suit house.

4. Learned counsel for the appellant also did not dispute during the course of arguments that since 1998, the appellant/plaintiff is not residing in the suit house and is not using the right of easement over the land in question.

5. In view of the concurrent findings recorded by both the Courts below being based on proper appreciation of evidence and also the submission made by learned counsel for the appellant/plaintiff, no substantial question of law arises for determination in this appeal.

6. Accordingly, the appeal, being devoid of merits is dismissed at the stage of admission.

7. There shall be no order as to costs.

8. A decree shall be drawn.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Kvr